Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-46 are pending in the application, with claims 1, 12, 20, 29, 33, and 38 being the independent claims. Claims 1-6, 8, 9, 11, 12, 19, 23, 29, 36, 38, 39, and 42-44 are amended for clarity. New claims 45 and 46 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Claim Objections/Allowable Subject Matter

Initially, Applicant gratefully acknowledges the Examiner's indication on page 2 of the Office Action that the patent application contains allowable subject matter. The Examiner is thanked for the indication that claims 13-37 are allowed.

The Examiner states that claims 2-12 were objected to, but would be allowable over the applied reference if rewritten in independent form including all of the features of the base claim and any intervening claims. Applicant has, rather than make these claims independent, included the allowable subject matter in claim 1, as discussed below.

Rejection under 35 U.S.C. § 101

Claims 38-44 were rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

The Examiner asserts ""[a] computer readable medium" is not patentable subject matter." (Office Action, page 2). Although Applicant believes claims 38-44 represent patentable subject matter as previously pending in the application, merely in order to expedite prosecution, Applicant has amended claims 38, 39, and 42-44 without conceding the propriety of the rejection. Claims 38-44 as amended herein recite tangible computer readable media having instructions stored thereon for providing data retention for electronic data. Support for the amendments is found in the instant specification, at least at, for example, paragraphs [0018], [0092], and [0096] and FIGs. 1 and 10. Therefore, claims 38-44 recites claim are directed to statutory subject matter.

Accordingly, at least based on the amendments above, Applicant respectfully requests that the rejection of claims 38-44 under 35 U.S.C. § 101 be reconsidered and withdrawn, and that the claims be allowed.

Rejection under 35 U.S.C. § 102

Claim 1 was rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by U.S. Patent No. 6,915,435 to Merriam ("Merriam"). Applicant respectfully traverses this rejection for the reasons stated below.

Anticipation under 35 U.S.C. § 102 requires showing the presence in a single reference disclosure of each and every element of the claimed invention, arranged as in the claim. See *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). Applicant submits that this is not found using Merriam.

Without acquiescing to the propriety of the rejection, and merely to expedite prosecution, Applicant has amended claim 1 to incorporate the allowable subject matter of previously pending claim 9. Accordingly, claim 1 is in condition for allowance.

Claim 1 recites features that distinguish over Merriam. For example, claim 1 as amended herein recites, *inter alia*, "cryptographically associating, using a cryptographic key, the document retention policy with the electronic document."

The Background section of Merriam may generally describe that "many companies implement policies (often referred to as information retention policies) under which information sets are systematically deleted from the system" and "[t]hese policies set forth criteria for determining if and when an information set is to be deleted, and are often time-based, such that an information set is deleted after having been in the system for a certain amount of time" (Merriam, col. 1, lines 10-17). However, Merriam is silent regarding the capability of "cryptographically associating, using a cryptographic key, the document retention policy with the electronic document," as recited in amended claim 1. Merriam may discuss a "retention manager" that implements "a predetermined information retention policy," wherein the "policy sets forth the criteria for determining if and when an information set is to be purged from the information system" (Merriam, col. 6, lines 14-26). However, Applicant submits that Merriam, in the sections cited by the Examiner, or in other sections, lacks any teaching or suggestion of the above-noted distinguishing features of claim 1.

Merriam may describe that an "information manager 110 encrypts (214) the information set using the selected key, and then stores (216) the encrypted information set 120 into one or more of the persistent information repositories" (Merriam, col. 5, lines 11-14 and FIGs. 1 and 2). However, even assuming *arguendo* that Merriam's

"information set," "information retention policy," and "selected key" are analogous to the document retention policy, the electronic document, and the cryptographic key recited in claim 1, Merriam does not teach or suggest cryptographically associating the information retention policy with the information set using the selected key. Thus, Applicant respectfully submits that Merriam cannot teach or suggest "cryptographically associating, using a cryptographic key, the document retention policy with the electronic document," as recited in claim 1.

The only cryptographic operation discussed in Merriam is encryption of "the information set" itself (Merriam, col. 4, lines 12-14 and col. 5, lines 11-14). Merriam discloses that "only the encrypted form of the information set 120 is persistently stored within the information system" in order to preserve "the integrity of the information retention policy" (Merriam, col. 5, lines 24-36). While Merriam may define "the term "information set"" as referring "broadly to any type of information, including but not limited to files, messages, web pages, communications, cryptographic keys, access codes, etc." (Merriam, col. 3, lines 22-26), Merriam explicitly discloses that "if one or more information sets need to be purged, then the retention manager 116 deletes (306) from the key repository 114 the key(s) associated with the encrypted versions of those information set(s) 120." (Merriam, col. 6, lines 31-34). In Merriam's system, "the retention manager 116 is responsible for implementing an information retention policy to determine which keys to delete from the key repository 114." (Merriam, col. 4, lines 22-25). Merriam's information sets comprising "encrypted information 120" are clearly separate from "key repository 114" (Merriam, FIG. 1). Merriam may describe that keys in "key repository 114" may be "associated with the encrypted versions of . . . information set(s) 120" (Merriam, col. 6, lines 31-34). However, nowhere does Merriam

teach or suggest cryptographically associating, using a cryptographic key, the document retention policy with the electronic document, as recited in claim 1. For at least this reason, Merriam does not anticipate claim 1. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 1 under 35 U.S.C. § 102 and that this claim be passed to allowance. Claims 2-12, which depend from independent claim 1, are allowable for at least being dependent from allowable claim 1, in addition to their own respective distinguishing features. See *In Re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) and M.P.E.P. § 2143.03.

Newly Presented Claims 45 and 46

Claims 45 and 46 are added to provide Applicant with additional scope of protection commensurate with the disclosure. Newly presented claims 45 and 46 depend from allowable claim 4 and allowed claim 16, respectively, and are believed allowable for at least the same reasons as discussed above with regards to claims 4 and 16 and further in view of their own respective features. Reasons for the entry and allowance of new claims 45 and 46 have been presented, above. Applicant respectfully requests the entry and allowance of claims 45 and 46.
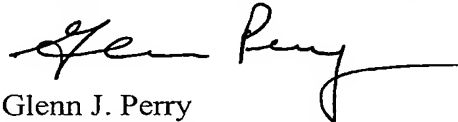
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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